

REMARKS

Claims 1-14, 18, 29, 39, 44, 47, 49, 74, 79, 140, 143, 144, 147 and 148 were previously pending in this application. By this amendment, Applicant is canceling claims 5, 6, 14, 18, 29, 47, 49-53, 74, 79, 140, and 148 without prejudice or disclaimer. Claims 1, 3, 39, and 44 have been amended. As a result claims 1-4, 7-13, 39, 44, 143, 144, and 147 are pending for examination with claims 1, 13, 39 and 44 being independent claims. No new matter has been added.

Rejections Under 35 U.S.C. §112

The Examiner has maintained the rejection of claims 1-4, 7-13, 39, 44, 143-144 and 147-148 under 35 U.S.C. §112 first paragraph as lacking enablement. In particular the examiner has indicated that the use of a fatty acid as an inducing agent is not enabled. Applicant has amended the claims to remove the limitation that the inducing agent is a fatty acid.

Accordingly, withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. §112

The Examiner rejected claims 1-2, 13, 39, and 144 under 35 U.S.C. §112 first paragraph as lacking an adequate written description. In particular the examiner has indicated that applicant has not adequately described tumor cells which express HLA-DR without the requirement for an HLA-DR inducing agent.

Applicant has amended claims 1 and 39 to clarify that tumor cells expressing HLA-DR are contacted with an HLA-DR ligand. The amendment to the claims clarifies that the method is performed on a cell which expresses HLA-DR only. Applicant has taught in the specification that cells having electron transport uncoupled from oxidative phosphorylation and low mitochondrial membrane potential have HLA-DR on the surface. It is possible to lower membrane potential using an HLA-DR inducing agent. This is taught in the specification on page 24. It is also taught in the specification that cells may already express HLA-DR on the surface if the membrane potential is low. The specification sets forth examples of methods to identify the membrane potential of cells. One of skill in the art would readily be able to identify

Additionally tumor cells expressing HLA-DR without the addition of an inducing agent have been described in the literature. For instance, the abstract by Dechant et al, Semin Oncol, 2003 30(4):465-75 (attached with 1449) describes cancerous lymphoma cells that express HLA class II. Thus, applicant should not be limited to the two steps.

Accordingly, withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. §102

The Examiner rejected claim 44 under 35 U.S.C. §102(b) as being anticipated by Burrows et al. because claim 44 was not limited to tumor cells.

Applicants have amended claim 44 to add the limitations of pending claims 148. Claim 148 has not been rejected in view of Burrows et al because the class of compounds does not include an anti-MHC antibody, as described in Burrows et al.

Accordingly, withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
Martha Karen Newell, Applicant

By: Helen C. Lockhart
Helen C. Lockhart, Reg. No. 39,248
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2211
Telephone: (617) 720-3500

Docket No. V0139.70028US00
Date: June 17, 2004
x06/19/2004x